

Revised to correct error regarding cost of programming

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below	See Below	See Below	See Below
CASH FUNDS		See Below		See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below	See Below	See Below	See Below

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 406 eliminates certain sales and use tax exemptions; eliminates the income tax on corporations; eliminates the financial institutions franchise tax; exempts certain retirement income from the Nebraska income tax; eliminates the earned income tax credit; changes benefits and requirements regarding certain tax incentive programs; makes adjustments to the Tax Expenditure Report; amends certain definitions; harmonizes language; and provides operative dates.

The bill outright repeals the following sections dealing with sales tax exemptions:

- 77-2704.27 Railroad rolling stock
- 77-2704.40 Molds, Dies, and Patterns
- 77-2704.47 Containers

77-2701.34 is amended to provide that sale for resale does not include “containers.”

77-2701.47, regarding the definition of manufacturing machinery and equipment, is amended to remove language referring to molds, dies and patterns from the definition of what constitutes such machinery or equipment.

77-2701.48 is amended to remove language referring to durable medical equipment, mobility enhancing equipment, over the counter drugs, prosthetic devices, or medical supplies from the definition of bundled transactions and what is not included in one.

77-2704.09 removes the sales tax exemption for mobility enhancing equipment, and the following when sold under a prescription: durable medical equipment, home medical supplies, prosthetic devices, oxygen, and oxygen equipment. The definitions of the same are also stricken from the statute.

77-2704.13 removes the sales tax exemption for various fuel types when 50% or more is used directly in irrigation, farming, processing, manufacturing, or refining, in the generation of electricity, or by any hospital.

77-2704.41 removes the sales tax exemption for agricultural chemicals and strikes the language as to what is included as an agricultural chemical.

77-2704.46 removes the sales tax exemption for seed and annual plants, the products of which constitute food for human consumption, and which seeds are sold to commercial producers, seed grasses, seed legumes, and seed grains sold exclusively for agricultural purposes. Also removes the exemption for agricultural chemicals, adjuvants, surfactants, bonding agents, clays, oils, and any other additives for use in commercial agriculture and applied to land or crops. Oxygen used in aquaculture also loses its exemption.

77-2715.07 is amended to strike language referring to a refundable income tax credit under the Nebraska Advantage Research and Development Act and new language is added referring to taxable years beginning before or on January 1, 2014 to provide a refundable credit under the same Act. Additional new language also refers to a credit under the Act for taxable years beginning on or after January 1, 2014.

77-2715.07 is also amended to remove the earned income credit by striking the pertinent language.

77-2716 is amended by adding new language to provide for a reduction in federal adjusted gross income for purposes of state income tax for certain retirement benefits or accounts. The reduction is limited to \$12,000 for a married, filing jointly return and \$6,000 for all other returns. This reduction does not include Social Security benefits.

77-2734.02 is amended to say that the corporation income tax shall apply only for taxable years beginning before July 1, 2014, thereby eliminating the corporation tax as of July 1, 2014.

77-3802 is amended to say that the franchise tax on financial institutions applies only to taxable years beginning before July 1, 2014, thereby eliminating the franchise tax as of July 1, 2014.

A number of changes are made to the Nebraska Advantage Act by LB 406. The qualified investment credit is now 5% for all eligible Tier 1, 2, 4, and 6 projects; the attainment period is now the end of the fourth year after the year of application for all Tiers; the entitlement period for all tiers is five years; allows income tax credits to be carried over until fully utilized with the exception of a Tier 6 project which may only be carried over for five years; provides that the changes in LB 406 apply only to those projects who file applications after the operative date of the bill. For applications filed prior to that date the current provisions of the Advantage Act still apply.

The Department of Revenue estimates the following fiscal impact to the General Fund:

Fiscal Year:	Exempt Partial Retirement Income from Income Tax:	Eliminate Earned Income Tax Credit:	Eliminate Corporation Income & Financial Institutions Tax:	Elimination of certain Sales Tax Exemptions:	Changes to Nebraska Advantage Act:	Total:
FY2013-14:	(21,989,000)	0	(6,004,000)	275,073,000	0	247,171,000
FY2014-15:	(53,804,000)	29,673,320	(71,786,000)	376,025,000	2,265,000	282,373,320
FY2015-16:	(56,858,000)	29,970,053	(218,816,000)	387,306,000	2,467,000	144,069,053
FY2016-17:	(59,931,000)	30,269,753	(293,335,000)	398,925,000	4,611,000	80,539,753
FY2017-18:	(63,057,000)	30,572,451	(302,307,000)	410,893,000	2,730,000	78,831,451

We find the Department's estimates to be reasonable and have no basis to disagree with the estimate of fiscal impact to the General Fund.

Note: the increase in sales tax receipts and elimination of the corporation income tax will result in additional sales tax refund claims under the Advantage Act of approximately \$30 million annually. This amount is not accounted for as a separate item in the table but is included in the Department's estimate.

The Department of Revenue has estimated the following impact to the State Highway Capital Improvement Fund (Cash):

FY2013-14:	\$11,134,000
FY2014-15:	\$15,220,000
FY2015-16:	\$15,667,000
FY2016-17:	\$16,147,000
FY2017-18:	\$16,631,000

We have no basis to disagree with the Department's estimate of fiscal impact to the State Highway Capital Improvement Fund.

The Department of Revenue indicates they will require additional staff due to an increase in administrative costs associated with new sales tax permit holders and changes to the tax incentive programs at a cost of \$434,000 for FY2013-14 and \$544,000 for FY2014-15.

LB 406 will also require a one-time programming charge of \$44,338 paid to the Office of the CIO to remove a line on the Form 1040N, as well as to the NebFile filing system in FY2013-14.

The Department also estimates they will realize approximately \$9,000 in annual cost savings due to reduced programming expenses associated with the corporate income tax program beginning in FY2014-15. Beginning in FY2015-16 they will realize annual savings due to staff reductions as a result of reduced processing of corporation income tax returns of \$184,000. Finally, due to the expiration of an audit contract with the Multistate Tax Commission, beginning in FY2015-16 the Department will realize an annual savings of \$140,000.

There is no basis to disagree with the Department's estimate of cost and savings for administrative costs, personnel, and operations.

IMPACT TO POLITICAL SUBDIVISIONS:

The Department of Revenue estimates the following fiscal impact to the Highway Allocation Fund:

FY2013-14:	\$1,965,000
FY2014-15:	\$2,686,000
FY2015-16:	\$2,766,000
FY2016-17:	\$2,849,000
FY2017-18:	\$2,935,000

The Department estimates an increase in local option sales tax revenue of \$40,000,000 beginning in FY2013-14.

There is no basis to disagree with the Department's estimate of fiscal impact to local political subdivisions.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES

LB: 406	AM:	AGENCY/POLT. SUB: Dept. of Revenue	
REVIEWED BY: Lyn Heaton		DATE: 2/5/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's revenue estimate. Analysis of the bill's estimated impact on the Department's operational costs will be ongoing.			

State Agency Estimate

State Agency Name: Department of Revenue				Date Due LFA:		
Approved by: Douglas Ewald				Date Prepared:		
				Phone: 471-5896		
	FY 2013-2014		FY 2014-2015		FY 2015-2016	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$ 538,000	\$247,171,000	\$ 535,000	\$282,373,320	\$ 64,000	\$144,069,053
Cash Funds		\$13,099,000		\$17,906,000		\$18,443,000
Federal Funds						
Other Funds						
Total Funds	\$ 538,000	\$260,270,000	\$ 535,000	\$300,279,320	\$ 64,000	\$162,512,053

LB 406 exempts a portion of retirement income from income tax; eliminates corporation income tax, financial institutions franchise tax, the earned income tax credit, and select sales tax exemptions; changes reporting requirements for the Nebraska Tax Expenditure Report; and changes certain benefits under the Nebraska Advantage and Nebraska Advantage Research & Development Acts.

LB 406, for tax years that begin or are deemed to begin on or after January 1, 2014, exempts a portion of retirement income, except for Social Security income, from income tax. The exemption is \$12,000 for married, filing jointly filers, and \$6,000 for all other filers.

LB 406 eliminates the corporation income tax and financial institutions franchise tax for tax years that begin or are deemed to begin on or after July 1, 2014.

LB 406 eliminates the following sales tax exemptions as of October 1, 2013: mobility enhancing equipment, durable medical equipment, home medical supplies, prosthetic devices, oxygen, and oxygen equipment; energy or fuel used in industry, agriculture, or by for-profit hospitals; molds, dies, and patterns; containers; railroad rolling stock; chemicals used in agriculture; seeds and annual plants sold to commercial producers or for exclusively agricultural purposes; and oxygen for use in aquaculture.

LB 406 limits the attainment and entitlement periods for all Nebraska Advantage projects to five years per period; allows income tax credits to be carried over until fully utilized except for tier 6 projects, which may be carried over up to five years; limits the investment credit to 5% for all tier 1, tier 2, tier 4, and tier 6 projects. The changes to Nebraska Advantage apply to all applications filed on or after the effective date of LB 406.

LB 406 eliminates the refundable Nebraska Advantage Research & Development income tax credit; authorizes a nonrefundable Nebraska Advantage Research & Development income tax credit, which may be carried-forward for five years. The changes to the Nebraska Advantage Research & Development Act apply for tax years beginning or deemed to begin on or after January 1, 2014.

The Department estimates the following impact on the General Fund:

Fiscal Year	Exempt \$6,000/\$12,000 of Retirement Income from Income Tax	Eliminates EITC	Elimination of Corporation Income Tax & Financial Institutions Tax	Elimination of Some Sales Tax Exemptions	Changes to Nebraska Advantage	Total
FY 2012-2013	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY 2013-2014	\$ (21,898,000)	\$ -	\$ (6,004,000)	\$ 275,073,000	\$ -	\$247,171,000
FY 2014-2015	\$ (53,804,000)	\$ 29,673,320	\$ (71,786,000)	\$ 376,025,000	\$ 2,265,000	\$282,373,320
FY 2015-2016	\$ (56,858,000)	\$ 29,970,053	\$ (218,816,000)	\$ 387,306,000	\$ 2,467,000	\$144,069,053
FY 2016-2017	\$ (59,931,000)	\$ 30,269,753	\$ (293,335,000)	\$ 398,925,000	\$ 4,611,000	\$ 80,539,753
FY 2017-2018	\$ (63,057,000)	\$ 30,572,451	\$ (302,307,000)	\$ 410,893,000	\$ 2,730,000	\$ 78,831,451
FY 2018-2019	\$ (66,337,000)	\$ 30,724,553	\$ (302,996,000)	\$ 423,220,000	\$ 2,440,000	\$ 87,051,553

The increase in sales tax receipts and elimination of the corporation income tax will result in additional sales tax refund claims under the Nebraska Advantage Act of approximately \$30 million annually.

In FY 2013/14 and FY 2014/15, the Department will require additional staff due to an increase in administrative costs associated with new sales tax permit holders and changes to the tax incentive programs at a cost of \$434,000 for FY 2013/14, and \$544,000 for FY 2014/15.

LB 406 will require a one-time programming charge of \$44,338 paid to the OCIO to remove a line to the Form 1040N, as well as to the NebFile online filing system in FY 2013/14. It is estimated that the Department would also realize approximately \$9,000 in annual cost savings due to reduced programming expenses associated with the corporate income tax program beginning in FY 2014/15. Additionally, the Department would realize annual savings due to staff reductions beginning in FY 2015/16 due to reduced processing of corporation income tax returns of \$184,000. The Department will also realize annual savings of \$140,000 due to the expiration of an audit contract with the Multistate Tax Commission beginning in FY 2015/16.

The proposal would also have the following impact on the Highway Trust Fund:

Fiscal Year	State Highway Capital Improvement Fund	Highway Allocation Fund
FY 2012-2013	-	-
FY 2013-2014	\$11,134,000	\$1,965,000
FY 2014-2015	\$15,220,000	\$2,686,000
FY 2015-2016	\$15,677,000	\$2,766,000
FY 2016-2017	\$16,147,000	\$2,849,000
FY 2017-2018	\$16,631,000	\$2,935,000
FY 2018-2019	\$17,130,000	\$3,023,000

The Department estimates an increase in local option sales tax receipts of \$40 million beginning in FY2013/14.

Major Objects of Expenditure

Class Code	Classification Title	13-14	14-15	15-16	13-14	14-15	15-16
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
A21211	Fiscal Compliance Analyst	3	6	6	\$ 108,000	\$ 221,000	\$ 226,000
A29261	Revenue Tax Specialist	1	1	1	\$47,000	\$48,000	\$49,000
X29222	Revenue Agent	2	2	2	\$66,000	\$67,000	\$69,000
S01113	Office Clerk III	1	1	(5)	\$ 24,000	\$ 24,000	(\$124,000)
S29112	Revenue Operations Clerk II	1	1	(2)	\$ 29,000	\$ 29,000	(\$60,000)
Benefits.....					\$92,000	\$129,000	\$53,000
Operating Costs.....					\$104,000	(\$ 9,000)	(\$149,000)
Travel.....							
Capital Outlay.....					\$68,000	26,000	
Aid.....							
Capital Improvements.....							
Total.....					\$538,000	\$535,000	\$64,000